



Signed and Filed: December 21, 2022

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: ) Bankruptcy Case  
PG&E CORPORATION, ) No. 19-30088-DM  
 ) Chapter 11  
- and - ) Jointly Administered  
PACIFIC GAS AND ELECTRIC COMPANY, )  
Reorganized Debtors. )  
☐ Affects PG&E Corporation )  
☐ Affects Pacific Gas and )  
Electric Company )  
☒ Affects both Debtors )  
\* All papers shall be filed in )  
the Lead Case, No. 19-30088 (DM). )

**AMENDED ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS<sup>1</sup>**

On November 30 and December 12, 2022, the court held hearings on the following: *Motion to Extend Time Pursuant to Fed. F. Bankr. Pro. 7015 and 7018 to File Proof of Claim Pursuant to Fed. R. Bankr. Pro. 9006(b)(1)* filed by Yvonne Phillips et al (Dkt. 13088); *Motion Pursuant to Fed. R. Bankr.*

<sup>1</sup> Order Denying Motions to Allow Late Claims (Dkt. 13376) is amended to correct errors in Conclusion.

1 9006(b)(1) to Deem Justine Larsen-Bernedo's Claim Timely Filed  
2 filed by Justine Larsen-Bernedo (Dkt. 13080); Motion to File  
3 Claim After Claims Bar Date filed by Taryn Scott (Dkt. 13099);  
4 Motion to File Claim After Claims Bar Date filed by Alexandra  
5 Dougherty (Dkt. 13109); Amended Consolidated Motion to  
6 Allow/Deem Timely Late Filing of Claimants filed by Lesa Bushby  
7 et al. (Dkt. 13137); Motion to File Claim After Claims Bar Date  
8 filed by Michael Freeland (Dkt. 13155); Consolidated Motion to  
9 Allow/Deem Timely Late Filing of Claimants filed by Darla  
10 O'Connor (Dkt. 13161); and Motion to Allow/Deem Timely Filing of  
11 Proof of Claim filed by Davin and Debbie Abrahamian (Dkt. 13249)  
12 (together, the "Late Claim Motions"). The individual claimants'  
13 information associated with the Late Claim Motions is attached  
14 to this Order as an Exhibit.

15 All movants are Wildfire Claimants, as defined below.  
16 While the Fire Victim Trust ("FVT") objected to each of the Late  
17 Claim Motions individually (Dkts. 13139; 13131; 13144; 13147;  
18 13157; 13246; 13254; 13281) ("Objections"); the court issues  
19 this Order addressing all of the Late Claim Motions in the style  
20 of an omnibus objection. See Fed. R. Bankr. Pro. 3007(d)(4) and  
21 (f). For the reasons explained below, the court sustains the  
22 FVT's Objections and denies the Late Claim Motions.

### 23 **I. History of Claims Bar Date**

24 No claims bar date was set for any creditor at the outset  
25 of these bankruptcy cases, which were initiated on January 29,  
26 2019. On May 1, 2019, now-Reorganized Debtors PG&E Corporation  
27 and Pacific Gas and Electric Company ("Debtors") originally  
28 proposed a claims bar date of September 16, 2019 for victims of

1 the wildfires that ravaged various parts of Northern California  
2 in 2015, 2017, and 2018 ("Wildfire Claimants") (Dkt. 1784).  
3 Debtors also proposed a robust supplemental notice plan starting  
4 at least 95 days prior to that bar date to ensure that Wildfire  
5 Claimants, many of whom had almost certainly been displaced by  
6 the wildfires, would receive notice of the claims bar date.

7 The proposed claims bar date was hotly contested (See  
8 objections to the proposed claims bar date at Dkts. 2043, 2238,  
9 2239, 2240, 2242, 2248, 2306, 2307, 2308, 2316, 2321, 2324,  
10 2326, 2346, 2453), with the Tort Claimants Committee requesting  
11 an alternative claims bar date of January 31, 2020. Debtors  
12 subsequently amended the proposed claims bar date to October 21,  
13 2019.

14 At a hearing on June 26, 2019, the court granted the  
15 Debtors' modified claims bar date proposal. The court's Order  
16 (Dkt. 2806) establishing the bar date incorporated the Debtors'  
17 Revised Notice Procedures that included: mailed notices (as is  
18 typical and required in all bankruptcy cases); email notices;  
19 notice via a variety of print media publications; online  
20 advertisements; social media advertisements; local television  
21 and radio advertisements in both English and Spanish; national  
22 television advertisements to reach those who may have moved out  
23 of state; a dedicated website for Wildfire Claimants; and a  
24 toll-free phone number for Wildfire Claimants. This multi-  
25 pronged approach targeted, in descending order of intensity of  
26 the targeting: those still living in affected areas of Northern  
27 California, the rest of California, and the rest of the nation.

1 On November 11, 2019, the court entered the *Order Extending*  
2 *Bar Date for Wildfire Claimants and Appointing Claims*  
3 *Representative* (Dkt. 4672), extending the bar date specifically  
4 for Wildfire Claimants to December 31, 2019, and appointing a  
5 Claims Representative to conduct further outreach and assist  
6 Wildfire Claimants in filing claims. By the end of the extended  
7 claims bar date, 82,692 Wildfire Claimants filed timely proofs  
8 of claim.

9 After the extended bar date passed, the FVT took an  
10 apparent stance of acquiescence or non-opposition to requests  
11 from Wildfire Claimants to allow late claims. In 2020, 55 late  
12 claims were filed and were not opposed. In 2021, 22 late claims  
13 were filed and were not opposed.

14 This year, the number of late claims has dramatically  
15 increased, which, per the FVT's Objections, prompted its  
16 response. That response, made in open court and in several  
17 filings, was that the FVT would no longer take a liberal non-  
18 opposition stance to late claims filed after September 30, 2022,  
19 and that "[t]he Trust's policy of non-opposition was never a  
20 guarantee that every late claim motion would be unopposed, and  
21 the Trustee's statements regarding the need to reconsider that  
22 policy were intended to clarify this and alert claimants and  
23 counsel to the Trust's transition to stricter review of late  
24 claim motions."

## 25 **II. Discussion**

26 A bankruptcy court may, on motion of a claimant, deem a  
27 late claim to be timely filed if the delay "was the result of  
28 excusable neglect." Fed. R. Bankr. Pro. 9006(b)(1). The

1 decision regarding whether a late claim was the result of  
2 excusable neglect "is at bottom an equitable one, taking account  
3 of all relevant circumstances surrounding the party's omission."  
4 *Pioneer Inv. Services Co. v. Brunswick Associates Ltd.*  
5 *Partnership*, 507 U.S. 380, 395. Some circumstances include "the  
6 danger of prejudice to the debtor, the length of the delay and  
7 its potential impact on judicial proceedings, the reason for the  
8 delay, including whether it was within the reasonable control of  
9 the movant, and whether the movant acted in good faith." *Id.*

10 There is no question regarding the good faith of any of the  
11 parties who filed the Late Claim Motions. Nor does the court or  
12 the FVT doubt the nature and extent of the injuries that have  
13 prompted the Late Claim Motions. The proceeding that may be  
14 impacted by allowance the late claims is the general  
15 administration of the FVT in determining claims and making  
16 distributions thereon.

17 The only equitable factors the court considers here are the  
18 prejudice to the FVT<sup>2</sup>, and whether the delay was in reasonable  
19 control of the movants.

20 First, the court finds that granting the Late Claim Motions  
21 would prejudice the FVT. According to the FVT, the Trust simply  
22 is not fully funded, the stock contributed to the FVT by the  
23 Debtors is not performing as well as expected (despite recent  
24 increases in value), and there may not be enough money in the  
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26 <sup>2</sup> The FVT is the representative of each of the Debtors' estates  
27 regarding administering, objecting to, and settling the claims  
28 of Wildfire Claimants pursuant to the Paragraph 18(e)(iii) of  
the court's Confirmation Order (Dkt. 8053)

1 Trust to administer 100% payments to Wildfire Claimants who  
2 timely filed proofs of claim, let alone those requesting to have  
3 their late claims deemed timely now. The FVT may also be  
4 prejudiced by the additional expenditures of time and effort  
5 required of the FVT and its administrators to recalculate the  
6 projections and calculations made to ensure an equal pro rata  
7 distribution to all Wildfire Claimants, including those already  
8 paid. While each of the Late Claim Motions stresses the minimal  
9 impact any individual claim may have on the administration of  
10 the FVT, the court must balance the equities affecting the FVT  
11 as a whole. Taking the Late Claim Motions in the aggregate,  
12 combined with the thousands of timely claims, and the  
13 discretionary allowance of hundreds of previous late claims  
14 unopposed by the FVT, the impact on administration is more than  
15 de minimis and would prejudice the FVT.

16 Next, the court finds that no Wildfire Claimant has  
17 described circumstances that would explain why the failure to  
18 file a claim for over two and a half years constitutes excusable  
19 neglect. Almost uniformly, each claimant describes  
20 circumstances that amount to a lack of realization that their  
21 particular circumstances could be compensated, but not lack of  
22 notice regarding the claims bar date, or of the claims process  
23 writ large. One claimant outside of Northern California, who  
24 claims she "was not indirectly made aware of the POC deadline  
25 and obligation prior to the [proof of claim] deadline" fares no  
26 differently. That she did not reside in Northern California is  
27 not sufficient, as the Debtors engaged in a robust and legally  
28 sufficient state and nationwide notice process. Due process

1 requires notice of the opportunity to file a claim. That was  
2 provided here and generally to thousands of Wildfire Claimants.  
3 Due process does not require the awareness of the type of claim  
4 that might have been filed.

5 While the *Consolidated Motion to Allow/Deem Timely Late*  
6 *Filing of Claimants* (Dkt. 13161) first attempts to argue that  
7 all or some of the claimants included in that Motion "received  
8 absolutely no notice of their **potential entitlement** to file  
9 claims," (emphasis added) that does not mean they did not have  
10 notice of the claims process or the claims bar date, only that  
11 the claimants believed that they should not file claims for the  
12 types of damages they incurred.

13 The Consolidated Motion also asserts that "there was little  
14 to no substantial effort by any interested party (the Debtors  
15 not the Fire Victims Trust) in this case to alert prospective  
16 claimants of their right and entitlement to file a claim - other  
17 than third-party advertisements." The court notes that the FVT  
18 did not exist prior to confirmation of the Debtors' bankruptcy  
19 plan more than six months after the expiration of the claims bar  
20 date, and those third-party advertisements were legitimate,  
21 court-approved means of providing notice to those Wildfire  
22 Claimants who may not have received mail notices, and only some  
23 of the means utilized by the Debtors to give notice regarding  
24 the bar date and claims process for Wildfire Claimants. The  
25 Debtors could not control whether claimants chose not to heed  
26 those notices in favor of disinformation, nor was it the  
27 Debtors' duty to ensure every known and unknown Wildfire  
28 Claimant's full understanding of every type of injury that could

1 be compensated via the proof of claim process. It also does not  
2 appear there was a widespread misunderstanding regarding what  
3 types of injury could be compensated via a proof of claim: every  
4 type of injury described in the Late Claim Motions is listed as  
5 a checkbox on the Proof of Claim form for Wildfire Claimants,  
6 and were listed as injuries by Wildfire Claimants who timely  
7 filed proofs of claim.

8 Finally, the court addresses the argument made by some  
9 Wildfire Claimants that the FVT's decision to oppose only late  
10 claims, like the Late Claim Motions, filed after September 30,  
11 2022 is an arbitrary position and therefore should be  
12 disregarded by the court. Such argument has no merit. The  
13 discretion of the FVT to object, waive objection via non-action,  
14 or stipulate to any motion to allow a late claim is the FVT's  
15 alone. Nor is it appropriate for any of the parties to the Late  
16 Claim Motions to compare prior motions or orders on those  
17 motions. The Late Claims Motions stand or fall on their own.

### 18 **III. Conclusion**

19 For the reasons stated above, the court hereby SUSTAINS the  
20 Objections of the FVT and DENIES the Late Claim Motions. The  
21 Late Claim Motions shall not be deemed timely filed and are thus  
22 disallowed.

23 **\*\*END OF ORDER\*\***



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**EXHIBIT  
TO  
ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS**

<b>Motion Dkt. No.</b>	<b>Claimant(s)</b>	<b>POC No.</b>	<b>POC Filing Date</b>
13080	Justine Larsen-Bernedo	109629	10/10/22
13088	Rick Hallen et al.	109631	10/11/22
13088	Yvonne Phillips	109633	10/12/22
13116 13137 (Amended)	Joseph Pickett et al.	109638	10/24/22
13116 13137 (Amended)	Lesa Bushby	109656	10/31/22
13099	Taryn Skott	109644	10/26/22
13109	Alexandra Dougherty	109628	10/8/22
13155	Michael Scott Freeland	109634	10/14/22
13161	Greg Windisch et al.	109647	10/28/22
13161	Alan Biggi et al.	109652	10/28/22
13161	Jason Kessler et al.	109651	10/28/22
13161	Jason Wolcott et al.	109653	10/28/22
13161	Justin Richardson et al.	109676	10/28/22
13161	Jonathan Graves et al.	109654	10/28/22
13161	Thomas Jordan et al.	109649	10/28/22
13161	Casey Costello et al.	109650	10/28/22
13161	Eric Negrevski et al.	109665	11/3/22
13161	Chad Moll et al.	109648	10/28/22
13161	Brian Desmond et al.	109633	11/3/22
13161	Michael S. Henderson et al.	109659	10/31/22

<b>Motion Dkt. No.</b>	<b>Claimant(s)</b>	<b>POC No.</b>	<b>POC Filing Date</b>
13161	Christine Fitzpatrick Souza et al.	109658	11/3/22
13161	Scott Bagala et al.	109664	11/3/22
13161	Eric Walton et al.	109669	11/3/22
13161	Vincent Bagala et al.	109662	11/3/22
13161	Cheri Shoults and Alysse Galde	109661	11/4/22
13161	Brian T. Flahavan et al.	109655	10/28/22
13161	Darla O'Connor	109645	10/27/22
13249	Davin Abrahamian and Debbie Abrahamian	109640	10/26/22